

Serial No. 09/158,076

REMARKS

In accordance with the foregoing, claims 1, 4, 6, 10, 13, 15, and 18-21 are amended. No new matter is presented in any of the foregoing and, accordingly, approval and entry of the amended claims are respectfully requested.

Claims 1-8 and 10-21 are pending and under consideration.

CLAIM AMENDMENTS

Claims 1, 4, 6, 10, 13, 15, and 18-21 are amended to recite, using claim 1 as an example, a local area information terminal "retrieving a free channel through which no broadcasting is being conducted, by using a tuner, among broadcasting channels allocated to respective frequency bandwidths."

Support for such amendment is provided, for example, on page 12, lines 5-8 and illustrated in FIG. 4 (step 401). "

No new matter is presented in any of the foregoing and, accordingly, approval and entry of the amended claims are respectfully requested.

STATEMENT ON SUBSTANCE OF INTERVIEW

Applicant respectfully submits that the Substance of the Interview mailed July 19, 2005 is incorrect, in that it does not reflect the nature of what was discussed.

The Interview Summary states a telephone interview was conducted July 6, 2005 to discuss claim 1 and that "Applicant indicated that the arguments. . . had not been answered, . . . The examiner indicated that the arguments would be addressed in a new office action which was mailed on 6/16/05 after applicant had filed an RCE."

However, the cited telephone discussion of July 6, 2005 was instead the Applicant's representative request to the Examiner's supervisor and Examiner for an Interview Summary reflecting the previous telephone discussions of January 23, 2005 and March 23, 2005. In those previous discussions the Examiner stated the finality of the final Office action mailed May 24, 2004 was going to be withdrawn and a new office action mailed without filing of an RCE required. The Examiner indicated the Interview Summary was going to be provided documenting that delay in prosecution was on the part of the USPTO.

TRAVERSE OF REJECTIONS

Claims 1-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ghori (U.S.P. 6,282,714-B1) in view of combinations of Hamalainen (U.S.P. 5,729,541), Maillet (U.S.P. 3,649,764), McMullan (U.S.P. 5,729,541); Spaur (U.S.P. 5,732,074); Chang (U.S.P.

Serial No. 09/158,076

5,974,449);and Lange (U.S.P. 4,555,806). The rejections are traversed.

Recited Features Not Discussed

As provided in MPEP §2143.03 "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F. 2d 1981, (CCPA 1974)."

Each of the independent claims 1, 4, 6, 10, 15, and 18-21 recites, using claim 1 as an example, recites, a local area information terminal including "a channel retrieving unit retrieving a free channel through which no broadcasting is being conducted, by using a tuner, among broadcasting channels allocated to respective frequency bandwidths."

That is, according to an aspect of the present invention, a microprocessor, for example, indicates a tuner to determine by a retrieval whether there is a free channel through which no broadcasting is being presently conducted. (See, for example, page 12, line 5-8, and FIG. 4)

None of the art, alone or in combination, recite "retrieving a free channel through which no broadcasting is being conducted, by using a tuner."

For example, in support of the rejection of claim 1, the Examiner contends:

Hamalainen discloses in Figure 10 and 13, a system which monitors radio channels to find out which channels are free and which are reserved, this data is formatted into a bitmap and sent out to a number of mobile stations, the mobile stations then finds a free channel in order to transmit data, transmits a channel request and transmits the data (column 7, lines 1-21, 61- column 8, line 14, column 8, lines 34-61, column 9, lines 24-37), thus reducing collisions by transmitting data on a free channel".

Hamalainen, however, discusses that a base station determines a free channel for transmitting data. See for example, col. 2, lines 53-57, that discuss:

(t)he acknowledge burst in the A-slot includes the address of the mobile station requesting a channel and the channels dedicated for traffic.. The mobile station receives the acknowledge burst and then sets the receiver and the transmitter to the defined channel.

Ghori merely discusses a spread spectrum transceiver utilizing spread spectrum modulation to modulate signals (column 7, lines 14-15 of Ghori), and the distribution pattern is based on either direct sequence coding or frequency hopping.

Maillet merely discusses a time-division multiple-access communications system using "a satellite transponder and a plurality of earth stations . . . each burst is subdivided into time slots or channels," and these channels are reallocated among the operating stations in a frame. (See, for example, abstract).

Serial No. 09/158,076

Spaur merely discusses a mobile wireless communication system directed to communication of information between a remote computer and a vehicle (refer to the abstract of Spaur).

Chang discusses a system transmitting the e-mail to the mail server, allowing the user to login to the mail server using a permanent or temporary IP address.

Lange merely discusses selecting a channel based upon the channel which has registered the best quality (col. 6, lines 7-13).

McMullan, in contrast to the present invention, as discussed in col. 5 "relates to radio frequency data return apparatus for . . . recovery of set-top terminal purchase record and other information via reverse cable RF communication." and discusses a single bandwidth, i.e., 100kHz bandwidth data channel (col. 37, lines 64-65).

No Motivation To Combine Art In Manner Suggested

In support of the rejections the Examiner is relying on a different piece of art for each of the different recited features and contending that it would have been obvious for one in the art to modify the combination of the art relied on.

For example, in item 1 of the current Action, entitled Response to Arguments, the Action concedes that Ghorl does not discuss "display of free channels, selection of a lowest numbered free channel, defining channel bandwidth by frequency." However, the Examiner contends there is motivation to modify Ghorl since "it would have been obvious to combine Ghorl with Hamalainen in order to reduce data collision by transmitting on a free channel." (Current Action at page 3).

Applicant submits there is no motivation stated in the art relied on to modify the art in a manner as the Examiner contends. As set forth in MPEP §2144. 04:

(t)he mere fact that a worker in the art could rearrange the parts of the reference device . . . is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation . . . without the benefit of appellant's specification, to make the necessary changes in the reference device.

As an example, Applicant submits that one skilled in the art would not modify Ghorl, that discusses a transceiver that either uses (see, col. 7, lines 20-30) direct sequence coding or random frequency selection sequencing" for a selection of lowest numbered free channel, as the Examiner contends.

Summary

Since features recited by each of the independent claims are not discussed by the cited art, alone or in combination, and there is no motivation to combine the art in a manner as the

Serial No. 09/158,076

Examiner contends, *prima facie* obviousness is not established, and the rejections should be withdrawn and claims 1-8 and 10-21 allowed.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: October 17, 2005

By: Paul W. Bobowiec
Paul W. Bobowiec
Registration No. 47,431

1201 New York Avenue, NW, Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

LEGITIMATE FACSIMILE TRANSMISSION
I hereby certify that this correspondence is being trans-
mitted via facsimile to: Commissioner for Patents
PO Box 1450 Alexandria, VA 22313-1450
on October 17, 2005
By: Paul W. Bobowiec
Date: October 17, 2005